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HOUSE OF COMMONS  
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TAKEN BEFORE  
THE JOINT COMMITTEE ON HUMAN RIGHTS

**MARRIAGE (SAME SEX COUPLES) BILL**

TUESDAY 14 MAY 2013

RT HON MARIA MILLER MP AND STEVE WEBB MP

Evidence heard in Public

Questions 26 - 52

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Members present

Dr Hywel Francis (Chair)  
Mr Robert Buckland  
Simon Hughes  
Mr Virendra Sharma  
Sir Richard Shepherd  
Baroness Berridge  
Lord Faulks  
Baroness Kennedy of The Shaws  
Lord Lester of Herne Hill  
Baroness Lister of Burtersett  
Baroness O'Loan

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**Examination of Witnesses**

**Rt Hon Maria Miller MP**, Secretary of State for Culture, Media and Sport and Minister for Women and Equalities, Department for Culture, Media and Sport, and **Mr Steve Webb MP**, Minister of State for Pensions, Department for Work and Pensions.

**Q26 The Chair:** Good afternoon, and welcome to this, the second evidence session of the Joint Committee on Human Rights on the Marriage (Same Sex Couples) Bill. Welcome, Ministers. Could you, for the record, introduce yourselves, please?

**Maria Miller:** I am Maria Miller, and I am Secretary of State for Culture, Media and Sport, and also Minister for Women and Equalities.

**Steve Webb:** I am Steve Webb, Minister of State for Pensions at the DWP.

**The Chair:** Thank you very much. Could I begin by asking you a question concerning possible legal challenges? How confident is the Government that the Bill's provisions are robust and will remain so for the foreseeable future, given that there has been considerable speculation about the potential for legal challenges and other developments, both in the UK and in Strasbourg?

**Maria Miller:** Clearly in the development of any piece of legislation that the Government brings forward, we take very seriously the robustness of the case that we are making, and

we make sure that it is constructed in such a way so it will be robust if legal challenge is put forward. You will have already noted the evidence that has been given by a number of individuals, including Members of the House of Lords—I am thinking particularly of Lord Pannick and Baroness Kennedy—with regards to some of the main provisions within the Bill. I am thinking there particularly with regards to the ability for us to be able to provide safeguards for religious institutions that may choose not to opt into the ability to be able to hold same-sex marriages.

**Q27 Mr Sharma:** The Committee heard evidence from Professor McCrudden, who believes that the Government overstates the extent to which Article 9 is an effective protection and underestimates the extent to which Article 14 jurisprudence, particularly on sexual orientation, is developing, in claiming that the quadruple lock will prevent a successful legal challenge. What is the Government's response to this?

**Maria Miller:** It is quite straightforward that it is very clear from the European Court of Human Rights that they believe that Article 9, which is the right to religious freedom, is something that is absolute. Again, I draw the Committee's attention to other evidence that you have already heard in this respect. It would be almost inconceivable, I think the word was, that organisations—I am here talking about religious institutions—would be required to undertake a marriage between two people of the same sex if that was not something that they had already opted in to be party to. That is really a very clear case. Obviously there is a need to balance various aspects of the European Convention on Human Rights, but there is no hierarchy there; one does not override another by right and, therefore, the Article 9 rights in terms of religious freedom are clear and absolute, and are not affected by Article 14 in a detrimental way.

**Lord Lester of Herne Hill:** Minister, because I do not think there is any case in Strasbourg that suggests that you are wrong, I asked Robin Allen QC when he was here last

time whether he knew of any case, and he did not. Are you aware of any case that throws any doubt upon what you have just described as being the position?

**Maria Miller:** No, I do not. I think there are some cases that would imply that certainly the court feels that issues to do with determining matters around marriage and the rights of religious institutions in this area are things that should be determined at a local level. I am not aware of any particular cases that would throw into doubt the Bill that we are putting forward and the protections that we have talked about.

**Q28 Mr Sharma:** Some commentators have suggested that Clause 2 of the Bill should be amended to ensure that religious organisation and individual ministers are protected, not only from any compulsion to conduct same-sex marriage, but also from any detriment that may arise on account of a refusal to conduct same-sex marriage. To what extent does the Government consider this to be necessary? How will religious organisations and ministers be protected from such detriment if this is not specifically provided for in the Bill?

**Maria Miller:** There are already clear provisions within the Bill which provide clarity around the ability for religious institutions to be able to opt in to holding same-sex marriages. There are also provisions within the Bill that provide individual freedoms to be able to say that, even though your institution has decided to opt in, that individual minister within the organisation does not have to undertake such a marriage if it was not in accordance with that individual's own beliefs.

This is a very delicate area, because in no way does the Government want to get involved in the internal runnings of a religious institution—I am very clear about that and have been clear about it from the beginning—but we did feel it was necessary to provide this clarification, so that individual ministers can feel supported. Indeed, we have also had some feedback that would say that the national institutions, for want of a better word, quite welcome this, because it may indeed assist them with thinking about opting into performing

same-sex marriages in the future, if they know that their individual ministers could have that sort of protection afforded to them. This is a complex area. My priority throughout is to give people protection so that they can make informed choices in this area, and not feel themselves in any way pressurised into doing something that is against their religious belief.

**Q29 Sir Richard Shepherd:** My puzzlement over all these statements about seeing no difficulties, four locks and all the rest of it is we had in front of this Committee, for a different reason, Sir Nicolas Bratza, who was President of the Court of Human Rights, as you will recall. He did a powerful defence of a living doctrine, which is of some importance to us, particularly in another case, which is prisoners' voting rights. I cannot see how one can reconcile the Government's assertion and the view that this is legally certain, as long as there is a doctrine such as the living instrument. They can decide what in fact is the proper response in recognition of "societal change", I think were the words that he used. How can you have legal certainty when there is such a doctrine and a court above all our courts?

**Maria Miller:** Sir Richard, I would say that, in a democracy, of course anything can change in the future and I cannot predict what future Governments might do to effect change to legislation. What I can do and what has been my priority right from the start is to make sure that the legislation that we have here, based on the case law that we have, based on the clear—and I think it is very clear—understandings and directions from the European Court of Human Rights, is that we have constructed the legislation in a way that would afford the sort of protections, particularly for our religious institutions. If they felt it was not appropriate for them to be able to opt into undertaking same-sex marriages, they would have the ability to make that decision and that would be effected in the way that we would want it to be. If they did choose to opt in, and a number of religious institutions have indicated, through our consultation, that they would want to do that, they would be able to undertake that decision too.

With regards to the point you make about societal change, it is a very important one and nothing is set in aspic in this world, least of all marriage. When we look at the way society has changed its views on marriage over the centuries—and it is centuries—then you can see that it does, in many ways, reflect changes in society. Indeed, I draw the Committee's attention to the fact that, in this country today, we have over the last 12 months seen over a quarter of a million people get married. I think that is a great thing, but more than two thirds of those people are getting married through a civil route. I do not think that we should feel that the state has anything other than quite a large stake in the way that marriage develops.

**Sir Richard Shepherd:** But Secretary of State, it is the Government that is claiming absolute legal certainty in this matter. I am only querying how there can be such a claim when there is this ability of the court to do its societal rights. I cited to you an instance that is causing great difficulty for us at the moment, which is prisoners' voting rights—a clash of courts, a clash of interpretations, a clash of culture and a determination by the European Court of Human Rights that what is appropriate may not be appropriate, in their judgment.

**Maria Miller:** Though I would perhaps indicate that Article 9, religious freedom, has a slightly different role certainly in all of the work that we have done in the preparation of this Bill. That religious freedom has been something determined at a local level, something that is very much an absolute, is a little different.

**The Chair:** I am going to allow just two very short supplementaries and then we will move on. If they are not short, I will stop you. Baroness Berridge and then Lord Lester.

**Q30 Baroness Berridge:** Dealing with the question that talks about detriment: if an organisation or an individual is treated and has a detriment due to their views on same-sex marriage, as I understand it the Government at the moment is saying your remedy would be to issue a claim for discrimination, direct or indirect indiscriminate. That can be lengthy

and costly. Would it not be preferable to put it clearly on the face of the Bill to avoid that than to having litigation?

**Maria Miller:** I would never think that litigation is something that we should be encouraging in any area, because it is clearly not something the Government would want to encourage. I think that I would say to you very clearly that, if an organisation has experienced discrimination as a result of views expressed, then there are already clear avenues that it can follow to achieve legal redress. You are absolutely right to say that should not be the first port of call. The first port of call should be that organisations do not make mistakes and are clear about what is and what is not discrimination.

**The Chair:** Could I remind the Committee we are only on our third question at the moment? We need to make progress. Lord Lester, be brief.

**Lord Lester of Herne Hill:** Thank you, Chairman. Your compatibility statement on the face of the Bill says that, in your opinion, the provisions of the Bill are compatible with the Convention. Would I be right in thinking that your advisors, when advising you about that, would have taken into account the fact that the Strasbourg court, like British judges, has an updating view of the law and not a static and literal one that looks backwards only?

**Maria Miller:** Yes.

**Q31 Baroness Kennedy of The Shaws:** Secretary of State, the Equality and Human Rights Commission has raised some concerns about Clause 2. Their concern is about sub-clause (2) of that clause, which is the one that allows individual ministers to refuse to conduct same-sex marriage. They suggest that that has the effect of preventing a religious organisation which might be in favour of same-sex marriage from maintaining that position throughout the organisation. It will, if you like, undermine the internal doctrinal orthodoxy of a religion and interferes with, therefore, a religious organisation's freedom. I just

wondered to what extent the Government had given consideration to that particular point that is raised by them.

**Maria Miller:** I think it is a very important point, and I would set out very clearly that the Government does not believe that there is a role for it within the running of organisations, such as faith groups. In constructing this legislation, we have to make sure that we have the right protections in place. In fact, the very clear indications that we have had from a number of organisations is that providing this individual ability to be able to opt out of conducting same-sex marriage is actually a helpful addition and it is something that has been quite welcomed.

**Q32 Baroness Berridge:** Minister, to what extent does the Government consider that the decision by a religious organisation whether to opt into doing same-sex marriage might be regarded as a public function and, as a result of that, be subject to potentially judicial review claims, Equality Act claims and Human Rights Act claims?

**Maria Miller:** We have looked at this incredibly carefully, Chairman. We do not believe that the opt-in is a public function and that is for us very clear.

**Baroness Berridge:** In giving evidence to us, Professor McCrudden stated that the meaning of “public function” is extremely unclear. To what extent does the Government consider that this point—that is whether the decision to opt in is public function—should be clarified on the face of the Bill, particularly to avoid potentially lengthy and costly legal disputes around this fascinating point of law?

**Maria Miller:** I am sure it is a fascinating point of law for lawyers. It is certainly a very complex area. We have looked at this very carefully and we do not believe that the opt-in is a public function. We do not believe that there is an explicit requirement to have any clarification on the face of the Bill. Indeed, the discussions that I have had would indicate that such a clarification could cause some confusion as to whether or not other things that

do not have such a statement attached to them could be inferred to be public functions, as a result of not having that disclaimer put with them. What I am trying to do is not to create any uncertainty by not including such a statement on the face of the Bill.

**The Chair:** There are a couple of supplementaries. Could we pause at that point? Baroness O'Loan first.

**Q33 Baroness O'Loan:** Secretary of State, it would be helpful if you could explain to me why this opt-in is not a public function, given that the conduct of marriage, the legislation of marriage, which is what happens when a same-sex marriage will be conducted, has consequences in law as a statutory function. It is something that is regulated by law, etc. Why is it not a public function?

**Maria Miller:** The opt-in is not a public function; it is a process that we would go through or that an organisation would go through to decide whether or not it was a part. The marriage is clearly not a public function; it is a religious function, of which there is an aspect that is administrative, which is performed by a registrar. The issue here is whether or not the opt-in is a public function, and it is clear that the position we have is that it is not and there is not a requirement for us to clarify that further.

**Baroness O'Loan:** Very briefly, Minister, there are at least 4,000 religious premises in one Church alone that are registered for the conduct of marriages. I do not understand why it is not a public function. I leave it at that.

**The Chair:** There are a number of supplementaries. I am trying to keep tabs on them. Lord Faulks and then Mr Hughes.

**Lord Faulks:** Secretary of State, I understand that you regard, understandably, the process of opting in not to be a public function, but is there not a distinction between opting in and, having opted in, then arguably performing a public function?

**Maria Miller:** The religious marriage ceremony is just that; it is a religious ceremony. It is not a public function. Within that, there is an element that is conducted by a registrar or, indeed, in the Church of England it would not be a registrar. It would be the clergyman himself conducting an element of that marriage, which was a requirement by the state, but the overall marriage itself is not a public function, so we are very clear that there is no requirement to insert such a disclaimer as your colleague has indicated. I want certainty in this area and I think the existing law provides that certainty.

**Q34 Simon Hughes:** Secretary of State, thanks very much for coming to see us. The Government has not so far accepted any amendments to the Bill in Committee. Professor McCrudden, speaking on behalf of the Catholic Bishops' Conference of England and Wales, is not the only person who has both given evidence to us or has written to MPs, or Roman Catholics and people from other faith groups and none, arguing strongly that there should be greater protection added to the Bill. This is really a supplementary to your last few answers to the last few questions.

Would you be prepared to look again at providing more protection, including being sympathetic to amendments and new clauses that are down for next week? It seems to me there is no disadvantage in doing that. I cannot see why the Government should find it difficult to build in the maximum protection and, if legal advice is disputed—and there are significant people following Sir Richard's point and others saying, "We don't believe yet there is sufficient protection"—would it not be a better way to legislate to accept changes that give greater protections against actions against individuals, either criminal or civil, or that might avoid discrimination being felt or implemented against them?

**Maria Miller:** Mr Hughes will remember that, right from our very first debate in the Commons on this, my position has been, from the outset, about making sure that we provide people with the sort of certainty and protection that is absolutely necessary when

we are making what is an important development, although, I have to say, not an enormous step forward in terms of the way marriage is conducted. The introduction of civil partnerships in many ways was the big step forward in that area. This is another part of that process.

I have looked at many provisions to enhance protections within the legislation, both before it was initially introduced to the Commons, to make sure that particularly the protections around religious institutions in this country, which have got particularly distinctive ways of conducting themselves—i.e. the Church of England, the Church in Wales—and I have continue to look at any suggestion to enhance protections with a great deal of seriousness. I think you are right when you say, Mr Hughes, that it is not only to make sure that we have the best legislation, but it is also to give people that sort of certainty as well, even if it is not necessarily on a completely necessary level.

We want to give people certainty and clarity about the way this legislation is going to work, so I am certainly going into the debate next week listening very closely to any of the arguments that are put forward around protections. I know that a number of honourable Members have tabled amendments in that way, and I am considering them, looking at them closely and undertaking discussions throughout the process. At the moment, my feeling is that many of those amendments would not necessarily be required on the face of the Bill. There are some that potentially create this uncertainty that I have already talked about, so I am still very much in listening mode on it, but I am finding it difficult to accept certainly all of the amendments that have been put forward. The Committee Members may be aware that we have actually included further protections for some chaplains, just because of a particular potential problem we have identified ourselves that we wanted to close off, even though it is a very small issue.

**The Chair:** We seem to have a rush of supplementary questions. I would ask Committee Members to be more disciplined and reflect on the future questions. We may be asking in supplementary form questions that are coming up. Mr Buckland and then back to Baroness Berridge.

**Q35 Mr Buckland:** Are you saying then that the religious marriage ceremony and the act of registering the marriage are an indivisible transaction? Are they one and the same thing, or are they two separate transactions?

**Maria Miller:** I think they are two separate events that go on within a religious marriage.

**Mr Buckland:** Would you accept that the registering of a marriage has a civil dimension? It is a document that is used to evidence and is proof of evidence of a marriage. Is it a public function?

**Maria Miller:** Mr Buckland, what we are talking about here is the opt-in to the ability to be able to undertake same-sex marriages. That is under discussion. It is whether or not that is a public function that is the point at debate. Certainly all the evidence that I have seen and the discussions that I have had say that the opt-in is not a public function and, therefore, is not subject to the challenge that I think causes the uncertainty.

**The Chair:** Mr Buckland, this would be a supplementary to a supplementary to a supplementary. If you want to ask a supplementary, look at me. We are now going to move on. Baroness Berridge.

**Q36 Baroness Berridge:** Minister, the Church of England and the Church in Wales are excluded from the Bill's opt-in process. To what extent is the Government satisfied that the opt-in process does not expose all other religious organisations to greater risks? I think that is a comparative: greater risks to the Anglican Church.

**Maria Miller:** The different handling for the Church of England and the Church in Wales is purely because of the very different function that they have in this country. We are trying to

achieve the same end result for all religious organisations, i.e. that it is their choice as to whether or not they decide to opt into being able to hold same-sex marriages, and it is not something that is out of their control. The Church of England and the Church in Wales have their very specific requirements in this respect. It would not be possible for us to provide them the same protections without slightly different mechanisms, primarily because of the duty to marry parishioners that the Church of England has, and also the fact that canon law is part of the law of the land. That is quite distinct and different from every single other religious institution in this country. We therefore have to treat them in a slightly different way but, importantly, all organisations end up with the same, in terms of the protection that they can receive.

**Q37 Baroness O'Loan:** Secretary of State, I would just like to go back to this question that really emerges from this opt-in process not providing sufficient protection for other religious organisations. Would it be possible for the Government on the face of the Bill to state categorically this reality that if, for example, a Church that is not the Church of England or the Church in Wales conducts a marriage, there are two elements? There is the sacramental marriage, which is conducted by the Church, and at the end of that there is a second process to which Mr Buckland referred, which is the process of registering the marriage for the purposes of the law of England and Wales. That is not a public function. There is such a lack of clarity and such a risk. If Churches, for example, were to take the view that they were not protected by the registration, one of the things they might do is say, "Well, we will cease being the registrar of marriages for you." That would lead to 5,000 or so places in which there is no registrar of marriages, which the state would then have to provide. Is it not perhaps more sensible to try to clarify this further?

**Maria Miller:** Certainly. I would also want to be continuing to listen very closely to the arguments made in this area. As I say, the very clear discussions that I have had so far would

indicate that to have such a statement of clarification on the face of the Bill may run the risk of doing the opposite and creating some uncertainty in other areas, but I understand the strength of feeling on this matter. I do not think we differ in the end result we want to see, and I will always keep the door open to looking further at how we can make sure organisations have that feeling of certainty, but I do not want to do that to the detriment of uncertainty in other areas. I am sure the lawyers on this Committee will know that it is always a delicate balancing act of creating certainty by having very clear statements on the face of the Bill, which may actually create uncertainties in other areas.

**Q38 Mr Buckland:** Just looking at the criminal aspect to do with the Public Order Act, we know there been some concern about whether the existing provisions in the 1986 Act, as amended, provide enough protection for those who want to discuss or in some way criticise same-sex marriage. There is a so-called “free speech defence” at Section 29JA, which talks about “criticism of sexual conduct or practices” not being “taken of itself to be threatening or intended to stir up hatred.” Do you think that is enough of a protection to deal with discussion about same-sex marriage or does more need to be done in the context of the criminal law?

**Maria Miller:** Mr Buckland, you raise a really interesting point. The question perhaps should also be not just in the frame of the criminal law and what the criminal law requires, but also things that make people feel perhaps more certain that we are in a society that values Christian belief and we are in a society that actually values people’s ability to be able to express their belief, whether they are Christian or indeed members of any other religion. The issue of freedom of speech is something that I have thought very long and hard about. The straightforward answer to you is that provisions within the law already offer very clear protection for people’s ability to be able to express their religious views, be those views that are accepted or not accepted. It should be really clear for people to be able to express

those views in public. The straightforward answer to you is that yes, there are provisions there, but I do understand the point that you are probably making as well. There is a great feeling within our nation that perhaps some people's religious views can be difficult to express sometimes. People feel somewhat reticent about expressing them and I do understand that.

**Mr Buckland:** I am grateful to you for that answer. I do not want to have nice arguments about definitions within statute. Do you see the problem that I am indicating here? The phrase "sexual conduct or practices" is not coterminous with the discussion about same-sex marriage. That definition does not, on one interpretation, cover discussion or criticism of same-sex marriage as an institution or as a concept. It is more to do with sexuality, which is a different thing, is it not?

**Maria Miller:** Are there not other provisions in other aspects of our legal system that enable people to be able to express their religious views? I would suggest that views on same-sex marriage and those that believe quite in accordance with the law that—even after this Bill has gone through, Parliament willing—people who express the view that marriage is something that is between a man and a woman would be able to continue to do that. I do not think there would be any problem with people doing that, but I understand the point you are making that, sometimes—and this perhaps goes back to my response to earlier questions—by having great detail on the face of the Bill, it can create uncertainty that other areas may not be as free for people to speak about as they might otherwise feel, if there was not that specificity on the face of the Bill. It plays to my previous answer.

**Lord Lester of Herne Hill:** I wonder, Minister, whether what you have just said could be strengthened by asking your advisors to refer you to Article 10 of the European Convention on Human Rights on free speech, which is not mentioned in the explanatory notes at the

moment, but which makes the very point you are making: that you have to look at our civil and criminal law in a way that guarantees protection of free speech.

**Maria Miller:** I am sure, Lord Lester, you are absolutely correct in pointing that out, though I would just reiterate the point that, because of the complexities in this area, I am sure there are many people in this country who do feel that they have to be terribly careful about what they say. I do think it is important that we send a very loud message from this place that freedom of speech on religious belief is a really important part of our society.

**Q39 Lord Faulks:** Secretary of State, I want to move on to teachers and schools. There are concerns that the position of teachers may be vulnerable if they have opposing views, if I may put it that way, on same-sex marriage. They might be subjected to disciplinary proceedings or claims under the Equality Act. There are also concerns about how schools, particularly faith schools, are going to comply with their obligation to teach about sex and relationship education. There is no specific guidance provided by the Bill. Do you think that the Government ought to reassure and provide guidance in this area? If not, why not?

**Maria Miller:** I would say that there already is very clear guidance in this area. I know that many of the Committee will know already that teachers are already having to tackle these sorts of issues in other areas and, indeed, governing bodies are having to be able to negotiate their way through these issues already, whether it is in faith schools or non-faith schools, making sure that issues such as euthanasia, abortion or divorce are talked about in a way that is not only right for the age of a child, but also within the context of a faith. That is already a challenge to teachers, having myself been a governor on a number of schools, including faith schools, over the years. I know this from first-hand experience.

The guidance that is there already provides that framework but, equally, in the same way as I have expressed some sympathy for the previous questioner's line of questioning, I can understand why teachers can feel an uncertainty when there is change. I have said very

clearly that there is no requirement for us to change any of the guidance, but I will certainly be doing everything I can to make sure that there is clarity as to why that change is not required or that confidence can be had that teachers do not feel in any way compromised. There is a requirement for teachers to teach the facts of what life is about and what the law of the land is, and clearly they are able to express their views too. That is not going to change.

**Q40 Simon Hughes:** May I ask you, Secretary of State—you have alluded to it a bit before—about people like chaplains in prisons or in hospitals? Let me put to you an example, if I may. Let us imagine either a paid or a volunteer chaplain at Guy's and St Thomas' Hospital just over the bridge—Guy's is in my constituency—made it clear to the hospital they were not willing to conduct same-sex marriages, but also at the weekend went to their church and said that they regard same-sex marriage as an abomination and completely unethical and unacceptable. They condemned the Government for introducing it, MPs for voting for it and anybody who thought that you could change the traditional Christian position that marriage can only be between one man and one woman. Would they be able to continue doing that job they had either been paid to do or volunteered to do, without let or hindrance, in the hospital obviously, excepting any obligation to conduct such a marriage in the hospital chapel?

**Maria Miller:** There was an extensive debate in the Public Bill Committee on this very issue. In response to that debate and the further work that I have been doing in this area, we have tabled an amendment to provide further protection for chaplains employed by secular organisations, such as hospitals, armed forces or indeed universities, as a real way of making sure that we can provide the maximum clarity in this area.

Just to be really clear for the Committee today, hospital chaplains will be protected in just the same way as any other clergy and could not be forced to conduct marriages of same-sex

couples. They would not be able to conduct marriages of same-sex couples unless their governing authority of their religious institution or the religious organisation of which they are a part had opted in. In the unlikely event of an employer trying to force a chaplain to act against his or her religious belief, or the beliefs of the organisation that they represent, if that happened, the chaplain would have a number of further legal protections under the Bill, including the Equality Act 2010 and, indeed, employment law. Going back to the desire not to get into these sort of uncertain circumstances leading to litigation, our further amendment, we believe, will provide that extra clarity that the Bill Committee was certainly looking for.

**Simon Hughes:** Just one supplementary, Chairman, quickly if I may: you have mentioned hospital chaplains, public authority chaplains. That presumably includes prisons. Does the amendment or does Government intention include hospices, which clearly are not public sector; they are charities and not the same? Does it include people who are not employed but are volunteers, and lastly those who might be, say, Unitarian, if the Unitarian Church believed that same-sex marriage was acceptable? They as an individual might dissent from that so that they currently were doing a volunteering job as a Christian chaplain in, say, a hospital or a hospice or somewhere that was not a public institution.

**Maria Miller:** The answers to those three questions—I think there were three—would be yes. It is absolutely our intention that this would apply to people who were in non-public-sector chaplaincy roles, in terms of whether or not they are being paid or not. The answer was yes to your third point, though I cannot recall what it was now.

**Simon Hughes:** Where they had a different view from the Church.

**Maria Miller:** They had a different view, yes, because there are already provisions within the Bill that enable individuals to opt out, even if their governing authority has not opted out.

**Q41 Baroness O'Loan:** I just wanted to see whether there was anything else you wanted to add to what you have said on this question of employment, which Baroness Berridge raised earlier, because we have seen recent legal cases that concerned conscientious objections to same-sex marriage in the workplace. There have been cases based on employees' expression of opposition to same-sex marriage. I would like just to ask you: to what extent do you think that further legislative provision or guidance is necessary to clarify how employment law should deal with those issues in the workplace, should this Bill be passed, so that employers and employees know where they stand and that we do not have to resort to whatever form, whether it is judicial review or whatever it is, actions for breach of contract of employment or whatever?

**Maria Miller:** I think you raise an incredibly important point on how we can avoid a lack of certainty and how we can avoid legal cases. Certainly I am looking at ways that we might be able to provide that sort of certainty, and I will be intending to discuss that a little bit further, perhaps in the debate next week.

**Baroness Berridge:** Dealing with the chaplaincy issue, Article 9 of course is not a right just for those who happen to be employed in a religious organisation. It is a theme of your evidence that Article 9 is this shield and this protection. I was wondering if you could disclose to the Committee the academic literature and the Government's own submissions in *Ladele* and *Eweida* because, as far as I understand it, Secretary of State, *Eweida* is alone in being the only case where Article 9 was viewed as an appropriate protection. In every other case where it has been argued, it has not been. Could you please disclose those documents, just so we can see? It is actually quite a happy surprise to hear you have this view of Article 9, but I would be interested to see whether the jurisprudence and the Government's own submissions in the academic literature actually support that. Could you disclose that, at a later date obviously?

**Maria Miller:** I would just make two points. One is that I do not think it is just my view about Article 9. Certainly I have drawn the Committee's attention to things other people have said, particularly Members of the House of Lords. In terms of the academic literature, I am very happy to share any references there, though I am not sure of the protocols of sharing evidence that might have been used by the Government in these cases, so I would need to take advice on that.

**Baroness Berridge:** They are open documents. They are in the public domain over in Strasbourg, so I am not asking you for something that I do not think is disclosable, but by all means check. I was told that they are public documents now.

**Q42 Lord Lester of Herne Hill:** In the light of that exchange, I should declare an interest, because I was counsel in the third-party intervention in the Ladele/Eweida case and I happen to agree with the Government in its reading of Article 9, for what it is worth. However, I wanted to ask about the Public Sector Equality Duty, because this is another concern that has been raised that could be read to require public bodies to promote same-sex marriage. You have already given a reply to the Equality and Human Rights Commission about that, which I am sure we will note. I think your position is that it would amount to unlawful discrimination on grounds of religion or belief, under the Equality Act, to penalise public bodies in the way that has been suggested. Can you also think about the free speech Article 10 point I have raised already? That is important as well, it seems to me. Are you intending to monitor the situation to see whether you are right and whether the Public Sector Equality Duty is being used in a way that will cause unjustifiable detriment to those opposed to same-sex marriage?

**Maria Miller:** You may be aware that we already have a group looking at the Public Sector Equality Duty, and I am sure I do not need to remind this Committee that the duty is to have due regard to the need to eliminate unlawful discrimination. It is not an instrument

itself to discriminate unlawfully and, indeed, it is not a duty to act; it is a duty to think. I do not believe that it would be something that could end up being used in that way.

**Lord Lester of Herne Hill:** A policy that penalises people or bodies for their religious or philosophical views, merely because the public authority disagrees with those views: that would amount to unlawful discrimination under the Equality Act?

**Maria Miller:** Clearly, though again I do understand that organisations can be very concerned about that sort of possibility. The number of cases seems to be quite limited, though equally such an uncertainty perhaps, in people's minds, can create a chilling effect in terms of people bringing cases. I do think that there is a continuing requirement to make sure that people have clarity that any such discrimination would be not right and not lawful, and continuing to see the role of Government as providing that information, so that organisations do not feel that they would be subject to such discrimination and have no recourse to the law.

**Lord Lester of Herne Hill:** You do not think it necessary to amend the Public Sector Equality Duty, as such, to deal with those things?

**Maria Miller:** I have no evidence at this stage to do that, no.

**Q43 Baroness Lister of Burtersett:** Secretary of State, I would like to move us on to the question of civil partnerships. You state in your letter to the Committee that, "Some opposite-sex couples believe that marriage is not for them and we believe that they should be free to make such a decision", and I cannot imagine anyone would disagree with that. If this Bill becomes law, some same-sex couples may also believe that marriage is not for them, but they will still be able to gain legal recognition of their relationship through entering into a civil partnership. What is the justification for denying opposite-sex couples access to the same legal benefits and protections, and why not extend civil partnerships to opposite-sex couples, in the same way that marriage is being extended to same-sex couples?

**Maria Miller:** Our position is very clear. This Bill is about making marriage available to all loving couples who want to get married, whether they are straight or whether they are gay or lesbian. In removing that barrier from entry into a marriage for a gay couple, we are removing an unfairness that is currently in the system. Straight couples—heterosexual couples—already have the ability to be able to form a marriage, a contracted relationship, which would afford them protection and benefits in the way that gay couples did not have before civil partnerships were put in place. Civil partnerships have provided that sort of framework for gay couples. We are now saying making marriage not available to them is not something that we feel is fair. We want to remove that unfairness and make it available but, in making that available to gay couples, we just do not feel that there is either a necessity or indeed a requirement to open up civil partnerships to heterosexual couples, because there is no deficit there; there is no lack of an ability to be able to formalise a relationship in a legal way. It is already there for heterosexual couples; it is called marriage.

I would also add that, in looking back at some of the debate as to when civil partnerships were first established, it was very clear in the thought process that this was perhaps a journey that people were on. Perhaps some of the Ministers at the time did not recognise that, but that was pretty clear. I do not think that journey was to have two tiers of relationship legalisation or two tiers of marriage. I think it was to be able to afford gay and lesbian couples in this country the sort of legal recognition that would be right. The Bill that we are putting forward today is making sure that that fairness is inherent in the system.

**Baroness Lister of Burtersett:** I do accept the case about unfairness, but if I could just press you, perhaps you are not creating a new unfairness. If I quote from the very useful document that the Government Equalities Office put out about setting out the truth, it says, “Myth: there is no difference between civil partnership and marriage. Reality: there are some small legal differences between civil partnerships and marriage. But for many people

there are important differences in the perception of and responsibilities associated with these separate institutions.” If for many people there are important differences, are you not in effect creating a new unfairness for some opposite-sex couples who, for whatever reason, may not wish to marry but do want some kind of public recognition of their relationship?

**Maria Miller:** The clear motivation for putting forward the equal marriage Bill is that marriage has a real value in society and it should not be for the Government to stop people from having access to what has been a civil institution for 150-odd years simply because of their sexuality. In terms of the evidence for creating another institution, which may offer something different, I am not aware of the evidence base that would say that that was something that we should be doing. Certainly within this Bill, we are very focused on marriage and making marriage a stronger thing. I am sure there will be those who debate whether or not there is a requirement for other ways of formalising relationships outside of marriage. I have not got that evidence base, and certainly the idea of extending civil partnerships to heterosexual couples would be a significant change to the Bill that we have before us at the moment and would result in significant differences, both in terms of the implementation timetable, which would be significantly impacted if such a change were to be effected, and indeed I believe there would be some quite considerable cost to be understood more closely before any such change could be really effected.

**Q44 Baroness Lister of Burtersett:** Presumably the Government has given thought to what these costs would be. Would it be possible to send the Committee a supplementary note as to what exactly would be involved, because I have to say I do not really quite understand why, because there are a lot of people arguing for this, there is such resistance in the Government?

**Maria Miller:** If it is allowable, Chairman, my colleague, the Minister in Work and Pensions, might be better placed than I to answer one of the particular costs that we have been looking at.

**Steve Webb:** Chair, just to think through the pensions space, if you allowed opposite-sex couples to form a civil partnership, the question then would be if their pension rights, in respect of each other, look like those of a married opposite-sex couple. There would be a strong argument for that. I do not know what the Government would decide but, if it decided that, you would have a whole set of people who at the moment have no survivors' pension rights at all who would suddenly have survivors' rights. It is pretty clear that, as soon as you have gone down that route, you might end up in a position of full equality, for example, for widowers expecting the same rights as widows. We have costed that of the order of £3 billion to £4 billion cost to public service pension schemes. Once you have opened that up that is one potential scale of impact.

**Lord Faulks:** Secretary of State, just leaving aside the financial consequences for the moment, this Bill, as I understand it, is about inclusion. Following Baroness Lister's question, can I be a bit more specific? There are a number of people, particularly women, who do not perhaps share your enthusiasm for marriage and think that marriage oppresses women. None the less, they would like the benefits of a civil partnership and find it rather peculiar that they would not be able to have the benefit of this relationship when same-sex couples can. Does there not seem to be a bit of an anomaly there?

**Maria Miller:** I am not sure why marriage would oppress women any more than it would oppress men. Certainly I would not use that word in conjunction with it. It is an institution that provides the sort of stability that human beings thrive on. There will be individuals who will choose not to marry and there will be individuals who will choose to marry. I have not yet seen any evidence base to suggest that civil partnerships, in some way, overcome an

individual's or a couple's resistance to undertaking a legal formalisation of their relationship. Although for many of us marriage is far more than just a legalised formalisation of a relationship, to all intents and purposes, that is what it is. Why would a civil partnership be any different from a marriage in that respect? I do not really understand.

**Baroness Kennedy of The Shaws:** I have to tell you, Secretary of State, that there are many women who actually do feel historically marriage comes out of the patriarchal system and that women in marriage have—

**The Chair:** At the risk of oppressing you, Baroness Kennedy, I am not sure whether you caught my eye then and you did not.

**Baroness Kennedy of The Shaws:** I am very sorry; I was moved by the moment. I think that there are women who might be watching—

**Maria Miller:** Having been married for 23 years, I do not feel oppressed myself, but I can understand that people will have different views on the matter.

**The Chair:** Never mind. Hold your horses. I think we are on Lord Lester now.

**Q45 Lord Lester of Herne Hill:** Minister, I introduced the Cohabitation Bill and I am strongly in favour of cohabitation rights. Three English members of the Supreme Court, in a recent Scottish appeal, most unusually called for this reform having looked at the Scottish precedent. All of that would support my colleagues but it seems to me, and I wonder if you agree, to do it properly would require rather more detailed legislation well beyond the scope of what is now possible. Therefore, those who want to scupper the Bill, unlike me, would advocate it, but those who are in favour of cohabitation rights, I suggest, should leave that to another Private Members' Bill, which will be introduced very shortly by my colleague Lord Marks.

**Maria Miller:** I listen with interest to your comments on that. I agree with you: this is a marriage Bill and this is a very simple, straightforward Bill which attempts to try to extend

and strengthen the role of marriage in society. It would be an extraordinarily difficult thing to explain as to why we would want to put a delay into this Bill, because extending civil partnerships in the way that has been discussed would be a significant change to the Bill, not least of which there are issues around devolution which would need to be gone through, and many other policy areas looked at in more detail. We would be delaying a Bill that would allow gay couples to get marriage simply to give heterosexual couples even more rights.

**Simon Hughes:** I am grateful for the figures given by my friend the Pensions Minister. Can I ask you, Secretary of State, given that the supporters of a civil partnership for heterosexual couples range from people who may be opposed to this Bill—colleagues of ours in Parliament—to Peter Tatchell, who is my constituent, who is a keen advocate of the Bill, I wonder if, before Monday when the House of Commons comes to debate the Report stage, you would be kind enough to let us see and let colleagues see the balance of comments received to date by you and ministerial colleagues in favour and against the proposal for equal civil partnerships? I have received none, and I do not think I have heard of many other colleagues receiving any. Therefore, it seems to me the Government ought to take this as a more serious proposition.

**Maria Miller:** I am not in any way not taking the comments seriously around the extension of civil partnerships. What I am saying is that, within this Bill, which is incredibly important and focused, there is a risk to be run of considerable delay in implementation as a result of trying to do yet further things with it, over and above those that it was designed to do, i.e. extend civil partnerships. My colleague has already outlined some of the potential costs around pensions, which we would need to look into in great detail. There would also be some further negotiations with regards to the devolved authorities in the country. There will be a number of other policy areas we would have to look at in great detail.

Really, I would beg the question to the Committee as to whether they feel comfortable trying to do this within a Bill that is very simple, very straightforward and is actually trying to give a fairness to people who are long overdue that fairness. Maybe there is space to discuss this at another time, but I would say this is perhaps not the right Bill to be discussing this at the present time.

**Q46 Mr Buckland:** Minister, we have already touched upon pension rights. In particular, I just want to focus upon survivors' pensions and the distinction that is drawn on the survivorship of widowers and widows—the 10-year gap, as I call it. At the Bill Committee, you quite rightly pointed out that some occupational schemes are going above and beyond, which is welcome, but would it not be fairer and more straightforward to amend the Civil Partnership Act to equalise the rights of survivors of civil partnerships and same-sex marriage? I think you have mentioned some figures in another context relating to the extension of civil partnerships to mixed-gender couples. Is that really why the Government is reluctant to move in this area to equalise rights?

**Steve Webb:** When we approached this, we recognised that we are building on a system that already has lots of differences in treatment, within the state scheme, within contracted-out occupational schemes and contracted-in occupational schemes. Each of the differences of treatment is different, and each of them has drawn the line in different places for different reasons. What we are trying to do through this Bill is, as it were, not reopen all of those decisions that were taken for good reason at the time, but try to find the fairest place to put same-sex married couples within that framework.

For example, take contracted-out occupational schemes, where there is this 10-year GMP issue; we have widows in one category, widowers and civil partners in another. The question is: where do you put members of same-sex couples? If we were to put members of same-sex couples in with the widows category, you would then have to put the widowers in,

you would then have to put the civil partners in. That is where the £3 billion to £4 billion number comes from, not because of the same-sex marriage, which is a very small number of people, but you open up a whole raft of issues, which at the time were decided on principle. There is a very large cost and, in a sense, as the Secretary of State says, this is a Bill about a particular group of people who have been denied access to a right. It is not really a mechanism for reopening all of those other discussions. Those are broad questions.

All I would say is we are actually trying to get out of the pension system all of the complexity of derived rights, inheritance and so on, so that each individual builds up their own pension. For historical reasons we have special provision for widows, because they were second-class citizens in the pension system. We are actually trying to give everybody full pension rights, rather than build a whole raft of derived rights into the system.

**Lord Faulks:** Minister, during the Committee stage the Government undertook to review the impact of the Bill's pension provisions on transgender couples. I wonder if you could help the Committee with any further details of this review.

**Steve Webb:** I can. I am pleased to say that the Secretary of State yesterday tabled eight amendments to the Bill. We listened to the Public Bill Committee, to this Committee and to others that have made representations, which said that, where you have a pre-existing opposite-sex marriage, the Bill comes in and someone changes gender, you would not want the members of the couple to be put in an adverse position as a result. What the amendment does is retain the status quo ante, in terms of derived pension rights. I am pleased to say that amendment was tabled yesterday and will be part of the Commons Report consideration.

**Q47 Baroness Berridge:** Perhaps a question to the both of you. I received the briefing note to Peers, which indicated that, under the same-sex Marriage Bill, consummation is not an issue. Has there been any thought to the fact that survivors' rights in pensions can be

very valuable? Has the Government thought about whether friends might decide to enter into this advantageous arrangement to obtain significant inheritance rights, pension rights, etc., and would that be viewed under the new law as a sham marriage or not?

**Maria Miller:** For clarity for the Committee, there is no legal requirement for consummation in a marriage now. That is not a legal requirement, so the Bill will not change that fact. Clearly, those who are not marrying for the right motivations would be entering into a sham marriage, whether or not they are same-sex couples or not.

**Steve Webb:** All I would say is I would expect any pension scheme to take the state judgment as to the validity of a marriage. In a sense, the pension scheme would not be trying to decide that; it would just take what the state had decided. If the state said this was not a valid marriage, the scheme would just follow on from that.

**Baroness Berridge:** If I may, Chair: you have made this very clear. There is nothing wrong in principle now between two friends deciding that they may very well. The only people who would not be able to would be sisters, but two friends might decide to do it and there would actually be nothing wrong, in principle, under the new law, for two friends to enter into this arrangement in order to have those property and inheritance benefits. There is nothing wrong with that.

**Maria Miller:** I will just restate: there is no requirement for consummation now. We are making no changes to the consummation law as a result of this Bill. In terms of the status of people when they get married, we all know that marriages are very different for different people. There is no change that would be effected by this Bill for what you are saying.

**Steve Webb:** Indeed, if I may, presumably the same issue arises now for opposite-sex couples. A male and female friend could do exactly as you describe.

**Baroness O'Loan:** I just wondered whether the Government had costed the possibility that people will actually enter into these marriages in order to secure the pension rights that they would otherwise be unable to secure.

**Maria Miller:** At the risk of asking a question back, I would say: what would be stopping people from doing that now, if that was their motivation? Probably most people enter a marriage, whether it is a same-sex marriage or a heterosexual marriage, with the intention of having a loving relationship together. All of us will know that all of our marriages are very different. To be able to say that this would incentivise people to undertake marriages for the wrong motivations, I am not quite understanding why that would be more prevalent as a result of this Bill, rather than now, where a heterosexual couple could, if they wanted to, do exactly the same thing.

**Baroness O'Loan:** Minister, with respect, heterosexual couples can do that and we do not know what evidence there is for the reasons why they choose to get married. The question I am asking is: has anybody costed the possibility that this may be the consequence? It is simply that.

**Steve Webb:** I do not think we would have any basis on which to estimate the scale of it, to be honest.

**Q48 Simon Hughes:** Secretary of State, you said a few minutes ago that, in a way, the Bill is a very simple and straightforward proposition—I think I have written down correctly what you have said—because it is intended to allow people to have access to a civil institution that has existed for 150 years. Many of my constituents, and I think probably many of the constituents of all of us, however, do not see it like that. They see it as a huge change in Church and state. They might accept that there was a case and indeed argue for a case for the creation of civil partnerships in both same-sex and opposite-sex relationships. They might be very positive about civil union as being a separate status from marriage. What they

find very difficult to cope with is the idea that marriage, which has been defined in this country for so long as one man and one woman, is suddenly going to be redefined. They see that as an appropriation by the Government of an institution and a redefinition of it.

Given that, the one thing I have not been able adequately to explain, when I have explained both the Government parties are committed to equalities, is how, given that actually neither of us had it in our manifesto and it was not in the Coalition Agreement, there has not been a White Paper, there has not been a Green Paper and there has not been a draft Bill. I did not sense that it was something that had some deadline that had to be enacted in double-quick time. Can you try to explain to us why this Bill, which was not envisaged in the Coalition Agreement, has had a fast-track treatment when it is probably, in the eyes of many, as controversial as any Bill in this Parliament?

**Maria Miller:** One factual error in what you said: there was a very clear statement from the Conservative Party around looking at same-sex marriage in our manifesto for equalities, which was issued at the General Election.

**Simon Hughes:** With respect, I understand that, but it was not in the Conservative Party manifesto or the Liberal Democrat manifesto.

**Maria Miller:** It was in a very extensive statement manifesto statement around equalities, which was a very strong statement.

**Simon Hughes:** I am not dissenting from that. I understand.

**Maria Miller:** It certainly highlighted our commitment to equalities in this area. Any sense that this Bill has been fast-tracked is, I would say, not accurate. The amount of consultation that has been gone into, the largest consultation I think the Government has ever seen, over really a period of around a year, and then since the consultation extensive analysis of that, and then a period of discussions around the Bill—this has been a period that has been going on since 2011. I feel that that is not an incredibly fast-tracked process; Government finds it

difficult to do things very fast and this certainly does not feel to me like it is a rapid process. Certainly I would really underline to the Committee the importance that my officials and I have put on making sure that, throughout the process, we have an extensive dialogue with organisations and parties that have an interest in this area. I do think, whether it is the Church of England, the Church in Wales, the other religious institutions or indeed other individuals who have an interest in this area, we have had some of the most extensive discussions that I have had around the development of a piece of legislation.

**Q49 Simon Hughes:** Very briefly, that is quite true and I accept that entirely. It is just that I think it is very difficult for a lot of people to understand why, given that Parliament tries to do pre-legislative scrutiny now on any Bill of any substance, that this Bill, almost uniquely for a Bill that did not have an imperative deadline, has had neither a Green Paper, nor a White Paper, nor a draft Bill, when many of these issues would, it seems to me, have benefited from that sort of deliberative process.

**Maria Miller:** But it has had—and I think this is really important—an incredibly extensive consultation period on how it would be put into practice, and so we are very aware of the issues that have been raised and we have been able to deal with those issues quite effectively in the development of this legislation. If I were to take perhaps the Church of England as an example—an organisation that has some of the most complexities for us to be able to deal with—we have been working with them very closely. I believe now they are quite content with the way that we have provided those protections within the legislation. I would continue to listen to any other religious organisation or other groups that feel that we can do more in this area, as I have indicated earlier in my comments.

**Lord Lester of Herne Hill:** I am not sure whether this is going to persuade the people in my friend Simon Hughes's constituency in Bermondsey, but it might be helpful for the Government to inform both Houses about what is happening in the rest of the world on this

subject. As I am sure you know, New Zealand has now enacted a same-sex marriage Act and there are other countries in the common law and beyond that have done so. The Supreme Court of the United States has already got a huge brief given to it, showing what is happening in the rest of the world. Would it be possible for your Department—or would you prefer our Committee to do it?—to collate that material, so that people can be informed that this is a part of a global movement, which is happening?

**Maria Miller:** Lord Lester is absolutely right to say that there are many countries in the world now that have already enacted legislation in this area—Netherlands, Belgium, Canada, Spain, South Africa, Norway, Sweden, Portugal, Iceland, Argentina, Denmark, New Zealand shortly; France and Uruguay have both passed legislation and are moving forward in that way; and a number of states in the United States as well. You are right to say that but, as a Government and as a Parliament, we should always be doing what is right for our country. We have an extremely strong reputation on the global stage for our human rights work and for the work that we do in the area of equalities. I do not think it is surprising that we are moving forward with this legislation because of that. I suppose some people might say it is surprising that a number of countries have actually done this as far back as 2001. Given our extremely strong record on equality and human rights, it is surprising that it has really been for so many years that this has not been considered. I suppose civil partnerships was the first step, but this next step is more valuable.

**Q50 Baroness O'Loan:** Secretary of State, I know you published the response to the consultation, but I wondered: have you published the analysis to which you just referred, which enabled you to reach the conclusions that you reached, and is it possible for you to provide that to the Committee?

**Maria Miller:** Because there were so many responses that were received—more than 200,000 responses—it has taken some while to pull that together. I believe that we will be

shortly providing some further details of that consultation, although I do not have that with me. I may need to just write to the Committee to inform you of what we are going to be releasing. I think it might be some further analysis.

**Baroness O'Loan:** Chairman, if I may say so, there is some urgency on this, given the fact that this is coming to us and to the Commons in the next couple of weeks. I would appreciate that, thank you very much.

**Maria Miller:** Of course.

**Q51 Baroness Kennedy of The Shaws:** Secretary of State, you had answered the question that I was intending asking, which was about consultation, because there have been people who criticised the idea that the consultation was somehow not wide enough—that it was not broad enough. I am going to throw you a soft ball, because you have really answered this. Your door has been absolutely open to anybody who wanted to see you, who was concerned that their voice had not been heard loudly enough, has it not?

**Maria Miller:** Yes, and I think that is very important, because one of the wonderful things about our country is that we have a very wide range of religious organisations within our midst, and it is very important that we understand how this legislation will affect each of them. I have to say certainly members in both the Lords and the Commons have been incredibly generous with their time as well, in talking to me about their own personal experiences and indeed their own personal involvement in the many different religious institutions we have in this country. It is vital that this works effectively and that people feel that they can have the protections that they want to have, if that is the approach that they take.

**Baroness Kennedy of The Shaws:** I would have liked to have had a completely different question about something else.

**The Chair:** Please.

**Baroness Kennedy of The Shaws:** I celebrate your very happy marriage and I, happily, have a very happy marriage too—but I want to take us back to this business about civil partnership and your feeling that this was a Bill that was about marriage. Was it part of the consideration of Government to remove civil partnership, given that now marriage would be available to gay couples too?

**Maria Miller:** Certainly there were many policy decisions that were made in the preparation of this Bill and certainly one of them could have been to remove access to civil partnerships in their entirety. That decision was not taken because I think there is a clear need, and it goes back to again respecting people's beliefs and religious beliefs, for us to be respectful of the fact there may be couples in same-sex relationships who would not feel it was right for their own religious reasons to enter into a marriage. Therefore, to be able to still afford them the legal framework that a civil partnership or marriage can offer, we would need to keep civil partnerships available.

**Baroness Kennedy of The Shaws:** You see that answer is the answer to the question that was asked by Lady Lister, which is that there may be heterosexual couples who, for their own belief systems, find the idea of marriage not something they would want to enter into, but do want to make the commitment to each other, perhaps because they have children, and also to create certainty as to the position on death, as to what will happen to their property—what will happen to the things that they have grown up in their lifetime together as, if you like, collective properties within the family. If we are really concerned about families, why should this not be something that is available to heterosexual couples who may not feel that marriage is for them?

**Maria Miller:** I completely understand the argumentation that you are using. There could be people who are in that position. What I am saying is that this Bill was never designed to address that particular problem or situation. The research we have, the policy work we

have done and the extensive modelling of costs that we have done were never designed to accommodate that. That is a perfectly valid view to have. It is not a view that I would particularly agree with myself, but if you are going to say to me that you want to use this Bill to do a second thing, which is to extend civil partnerships to heterosexual couples, then that is a pretty significant piece of work. The real caution that I would give the Committee is that that significant piece of work would take a great deal of time. It would be regrettable to delay the implementation of this Bill for something that is giving yet further benefits to heterosexual couples.

**Q52 The Chair:** At the risk of accusing Baroness Kennedy of blue-sky thinking now, there are two other people in the queue who want to ask supplementary questions.

**Baroness Kennedy of The Shaws:** It is one sentence, Chairman. Does it not seem to you, Secretary of State, that by curing one area of inequality one may be creating another area of inequality?

**Maria Miller:** No, because this Bill is about giving fairness to people who have never had access to marriage before to have access again. Heterosexual couples have, since marriage was invented, had the ability to be able to formalise their relationships in a legal framework. I would suggest, if individuals want to look at other ways of formalising relationships outside of marriage, that that is a different piece of work, a different legislative vehicle that is required.

Could I, Chairman, clarify one piece of information about the analysis of the consultation? My officials have given me that information. What I was thinking of is that we are publishing the responses to our consultation from the organisations that took part on Tuesday, but indeed we have already published on our website the analysis that has been done of that consultation. The analysis is already publicly available; it is the responses from organisations that we are publishing on Tuesday.

**Baroness O'Loan:** Chairman, could I just have a clarification? Is the analysis your response to the consultation? Is that the same document?

**Maria Miller:** It is part of it, yes. It is the analysis of the consultation, yes.

**Baroness O'Loan:** The response is the analysis; it is your full analysis.

**Maria Miller:** Sorry, yes; I think it is. I would have to check what was on the website, sorry. I am not sure.

**Baroness O'Loan:** If it turns out not to be the full analysis, could the Committee have the benefit of the full analysis?

**Maria Miller:** Okay.

**The Chair:** Right, I do apologise to the two colleagues who were waiting very patiently at the end there. If there are additional questions that we would like to ask you, we could write to you and hopefully you would respond to us.

**Maria Miller:** Chairman, I am always delighted to receive letters from the Committee and to answer them in the best way that I am able to.

**The Chair:** Thank you very much. Once again, apologies to the two colleagues who were waiting patiently at the end there.

Thank you both for coming today. I know that you are very pressed for time and we have kept our bargain by finishing by 3.40 pm. It has been a most constructive evidence session.

Thank you very much.